INDEPENDENT INVESTIGATION

HOW THE POLICE ARE PROTECTING THE MURDERERS OF PEHLU KHAN

SABOTAGE WEAKENS CASE AGAINST GAU RAKSHAKS

Report Endorsed By:

Alliance for Justice and Accountability, New York • Citizens for Justice and Peace, Mumbai • Dalit American Coalition, New York • Human Rights Law Network, New Delhi • Indian American Muslim Council, Washington D.C. • Jamia Teachers' Solidarity Association, New Delhi • South Asia Solidarity Group, London • South Asian Solidarity Initiative, New York

OCTOBER 26, 2017 NEW DELHI

OFFICIAL STAND

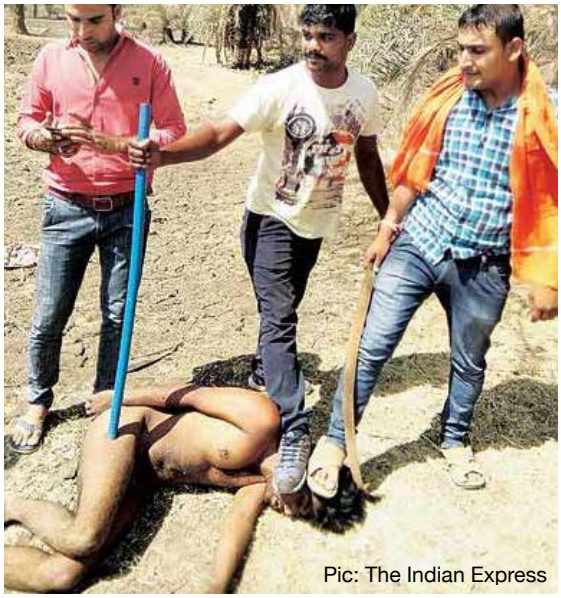
On June 29, 2017, Prime Minister Narendra Modi offered a scathing condemnation of cow vigilantism for its mob violence that has killed many Muslims and Dalits across India, especially since he came to power three years ago. “Mahatma Gandhi would never have approved of harming a human being in the name of cow protection,” Mr. Modi said at Ahmedabad’s Sabarmati Ashram that the Mahatma had founded a century ago. The violence of the self-styled gau rakshaks (cow protectors) was unacceptable, he said, and the government would not allow anyone to take the law in their hands.

A few months earlier, in August 2016, Mr. Modi had called the gau rakshaks anti-social elements indulging in crime at night but pretending to be gau rakshak in the day. He had promised he would ask the states to prepare dossiers on such gau rakshaks and take action against them.

In July this year Mr. Modi said at a meeting with leaders of various political parties that his government had asked state governments to act against gau rakshaks indulging in violence. Union Minister Ananth Kumar repeated in Parliament that the Ministry of Home Affairs had sent such advisories to the state governments.

CLAIM VS. REALITY

However, an exhaustive independent civil society investigation conducted to prepare this report has found that the police across the states are openly flouting the prime minister’s instructions, especially in the states that are ruled by Mr. Modi’s Bharatiya Janata Party (BJP), be it Haryana, Gujarat, Jharkhand or Rajasthan.

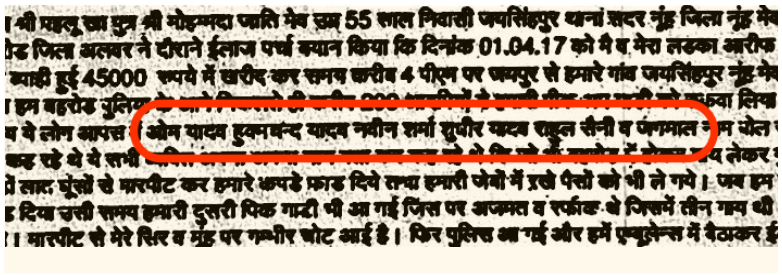

Pic: The Indian Express

The pattern of behaviour exhibited by the police reflects either monumental inefficiency or a deliberate attempt to weaken the cases against the accused gau rakshaks, nearly all of whom are said to be connected with the BJP and its affiliates such as the Vishwa Hindu Parishad (VHP) and the Bajrang Dal. Many of the accused have secured bail even though they have been charged with murder, that, too, committed in broad daylight. Their bail is even more surprising as the attackers took pictures and recorded videos of their acts which should anyway nail them without doubt.

PEHLU KHAN'S MURDER

On April 1, 2017 about 200 people armed with sticks fatally attacked Pehlu Khan, a dairy farmer, as he was on his way home with cattle he had earlier bought. The attack occurred in Rajasthan, close to Mr. Khan's village in neighbouring Haryana. Before dying two days later at a private hospital, Mr. Khan named six of his attackers in a statement given to the police. But none was arrested. In September, police concluded that none of those named was involved in the attack. Those arrested were not named either in Mr. Khan's statement or in the First Information Report (FIR). They got bail despite being charged with murder.

In his statement to the police, now a "dying declaration", Mr. Khan had said the attackers identified themselves by name and claimed they belonged to the VHP and the Bajrang Dal. Yet, the police did not investigate the two organisations. Mr. Khan said his attackers told him they attacked everyone passing their area with cattle.



Mr. Khan's statement in the FIR naming six attackers

This is part of a nationwide pattern in the last three years, of "gau rakshaks" attacking Muslims, lynching nearly two dozen. Various police reports have named organisations linked to the RSS. Yet, the police did not investigate a possible link that Mr. Khan's killing may have with this nationwide criminal activity.

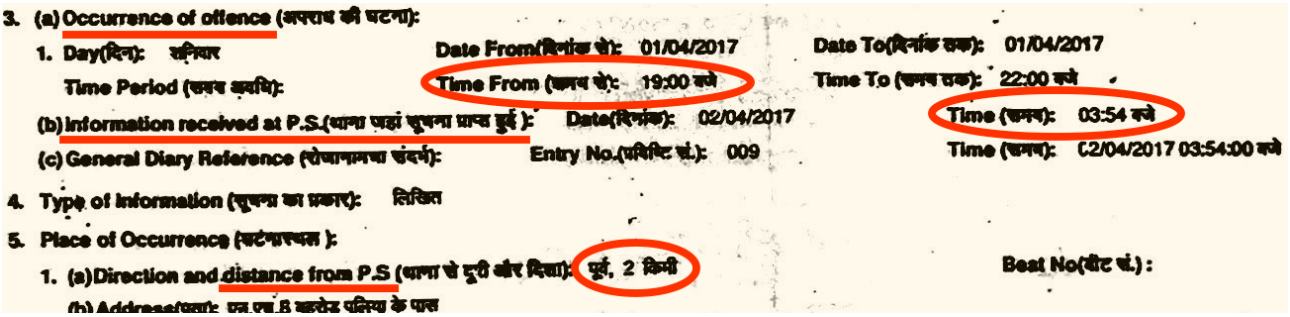
INDEPENDENT INVESTIGATION

This report contains the findings of an independent civil society investigation into the actions of the police and the prosecution so far. The records establish that the police and the prosecution have, through acts of commission and omission, worked from the day of the attack to diminish the enormity of the crime, weakening the case against the accused. This is akin to sabotage, perhaps deliberate, of the judicial process that should instead be marshalled to punish the culprits. Such acts of commission and omission have included:

- **Delaying FIR registration without any explanation**
- **Not invoking appropriate IPC sections for conspiracy, attempt to murder, destruction of evidence and dacoity, etc**
- **Invoking IPC sections for lesser crimes, such as wrongful restraint and causing hurt, with smaller punishments**
- **Failure to arrest the accused named in the dying declaration**
- **Exonerating named accused on dubious testimonies**
- **Failure to arrest any attackers from the crime scene**
- **Failure to defend arrests leading to the accused getting bail**

COVER-UP BEGINS WITH F.I.R.

According to the FIR the attack took place during 7 p.m.-10 p.m. on April 1. Yet, the police registered the FIR at 4.24 a.m. after a delay of nine-and-a-half hours, even though, as per the FIR, the scene of the crime is only 2 km from the police station. The FIR claims the police were informed of the attack at 3.54 a.m. Yet the FIR does not explain the delay.


3. (a) Occurrence of offence (अपराध की घटना):
1. Day(दिन): रविवार Date From(दिनांक से): 01/04/2017 Date To(दिनांक तक): 01/04/2017
Time Period (समय अवधि): Time From (समय से): 19:00 बजे Time To (समय तक): 22:00 बजे
(b) Information received at P.S.(थाना जहां सूचना प्राप्त हुई): Date(दिनांक): 02/04/2017 Time (समय): 03:54 बजे
(c) General Diary Reference (रोजनामचा संदर्भ): Entry No.(प्रविष्टि सं.): 009 Time (समय): 02/04/2017 03:54:00 बजे
4. Type of Information (सूचना का प्रकार): लिखित
5. Place of Occurrence (घटनास्थल):
1. (a) Direction and distance from P.S (थाना से दूरी और दिशा): पूर्व, 2 किमी Beat No(बीट सं.):
(b) Address(पता): एस एच 8 बहरोड़ पलिया के पास

Crime Scene only 2 km from Police Station, yet FIR filed 9 hours late

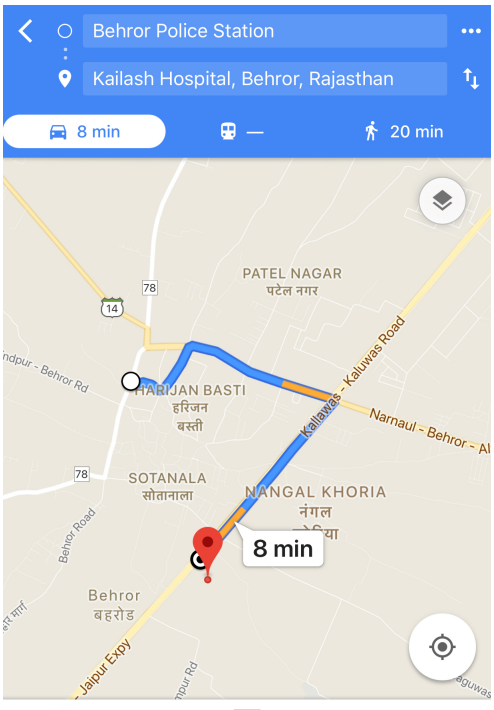
In fact, the FIR contradicts itself on when it received the information. In a statement that Mr. Khan gave to the police, which is detailed in the FIR, he claimed that the police took him and other victims to the hospital on April 1 from the scene of the crime. The "Final Report" that the police filed on May 31 with the charge-sheet in the court of the Additional Chief Judicial Magistrate (ACJM) at Alwar district's Behror tehsil, the jurisdiction in which the crime occurred, records that Mr. Khan gave his statement to the police at 11.50 p.m. on April 1 at Kailash Hospital where he had been admitted following the attack.

If the police learnt of the incident at 3.54 a.m., how did they bring the victims to the hospital and record Mr. Khan's statement previously? At the end of Mr. Khan's statement in the FIR the police wrote a case will be registered after reaching the police station.

Kailash Hospital is only 2.9 km from Police Station, Behror. Yet, it took the police four hours after recording Mr. Khan's statement at 11.50 p.m. to making an entry in the general diary at 3.54 a.m.

If, as Mr. Khan claimed, policemen were present at the crime scene, why does the FIR not name them? Why were their statements not recorded in the FIR? Why did they not arrest anyone at the crime scene?

Mr. Khan named six attackers. Why did the FIR not mention their names in the column "details of known/ suspected/unknown accused with full particulars"? Police Station SHO Ramesh Sinsinwar, who did not witness the crime, is named as the "complainant" in the FIR. If the police already had a statement from Mr. Khan, why was he not named the complainant?



8 min (2.9 km)
Fastest

2.9 km on Google Maps

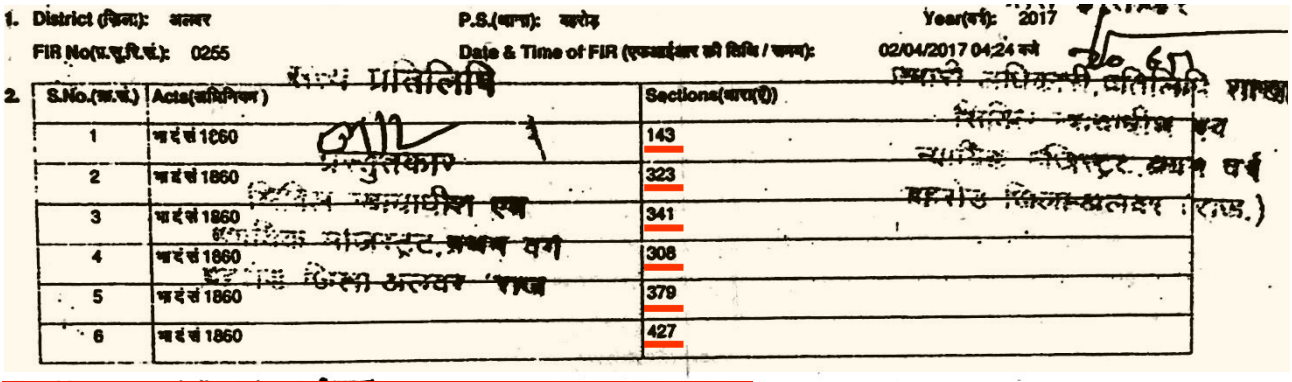
IPC SECTIONS INVOKED

Clearly, Mr. Khan's severe beating led to his death. Yet, the FIR does not invoke Sec 307 of the IPC for the offence of "attempt to murder" which provides for imprisonment of 10 years to life. Instead, the FIR invokes Sec 308, which only takes cognisance of "attempt to culpable homicide not amounting to murder", prescribing imprisonment of three to seven years. The IPC Sections the FIR includes are given in Table 1.

It must be noted that except Sec 308 and 379, all are bailable. The charge-sheet added Sec 302 for murder, also non-bailable. Yet the arrested accused secured bail as the prosecution failed to defend the charges and the arrests at the Rajasthan High Court.

Table 1

IPC	PERTAINS TO	PUNISHMENT
143	Being a member of an unlawful assembly	Imprisonment of up to 6 months
308	Attempt to commit culpable homicide not amounting to murder	Imprisonment of up to 7 years
323	Causing hurt	imprisonment of up to 1 year; Rs. 1,000 fine
341	Wrongful restraint	imprisonment of up to 1 month; Rs. 500 fine
379	Theft	imprisonment of up to 3 years
427	Mischief causing damage worth at least Rs. 50	imprisonment of 2 years


1. District (जिला): अलवर P.S.(थाना): [illegible] Year(वर्ष): 2017
FIR No(प्र.सू.रि.सं.): 0255 Date & Time of FIR (एफआईआर की तिथि / समय): 02/04/2017 04:24 बजे
2.

S.No.(क्र.सं.)	Acts(अधिनियम)	Sections(धारा(एं))
1	भादंसं 1860	143
2	भादंसं 1860	323
3	भादंसं 1860	341
4	भादंसं 1860	308
5	भादंसं 1860	379
6	भादंसं 1860	427

Only the weakest IPC Sections were invoked in the FIR

IPC SECTIONS IGNORED

On the other hand, several IPC sections that fit the offences in this case were ignored in the FIR/charge-sheet *(see Table 2)*. These should have been included on the basis of Mr. Khan's dying declaration, testimonies of the other victims and eyewitnesses, and the circumstances of the case. The failure of the police to do so — despite taking four hours to get to writing the FIR after taking Mr. Khan's statement — has alarming ramifications.

For, only the charges included in the FIR/charge-sheet are investigated and prosecuted. For example, an accused not charged with destruction of evidence or the use of a deadly weapon during the crime causing death will not be investigated or prosecuted for it.

The IPC Sections not invoked in the FIR/charge-sheet include:

Table 2

IPC	PERTAINS TO
120B	Criminal conspiracy for an offence that is punishable with death
307	Attempt to murder
34	Crime committed by several people in furtherance of common intention
148	Rioting armed with a weapon of offence likely to cause death
149	Every member of unlawful assembly equally guilty of the offence committed
153A	Promoting enmity on grounds of religion
204	Destruction of evidence
396	Committing dacoity with murder
397	Committing dacoity with attempt to cause death
399	Making preparation to commit dacoity
402	Assembling for the purpose of committing dacoity

Criminal Conspiracy / IPC 120B

The failure to invoke Sec 120B in the FIR/charge-sheet is glaring. Under this section the police would have to perforce investigate the criminal conspiracy behind the attack on Mr. Khan and the claim that the attackers were from the VHP/ Bajrang Dal. The investigation would find that the attack was clearly premeditated and not a "spontaneous" reaction to "cattle smuggling" by Mr. Khan as Rajasthan Home Minister Gulab Kataria, an RSS-BJP leader, alleged without proof.

Section 120B. Punishment of criminal conspiracy

'120B. Punishment of criminal conspiracy.—(1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, ²[imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

CLASSIFICATION OF OFFENCE

Para I

Punishment—Same as for abetment of the offence which is the object of the conspiracy—According as the offence which is the object of conspiracy is cognizable or non-cognizable—According as offence which is object of conspiracy is bailable or non-bailable—Triable by court by which abetment of the offence which is the object of conspiracy is triable—Non-compoundable.

An investigation would prove that the accused had tracked Mr. Khan's movements', and would disclose similar attacks by them over months. It would expose the serial targeting of Muslims on the pretext of cow protection. It could even name higher-ups in RSS-affiliated organisations for links to the violence by gau rakshaks.

As the punishment for conspiracy is the same as for abetment to the offence, it could well draw in such high-profile people into the dragnet of criminal prosecution for Mr. Khan's killing. The question then is: did Behror Police decide to dilute the case on their own or under the influence of the BJP governments at the Centre and in Rajasthan and Haryana?

Attempt to Murder / IPC 307

As noted earlier, the FIR/charge-sheet do not invoke Sec 307 that relates to attempt to murder. Instead, they invoke the lesser Sec 308 that pertains to "attempt to commit culpable homicide not amounting to murder". Sec 308 explains this with an example in which "grave and sudden provocation" prompts a murderer to commit the crime.

Thus, by invoking Sec 308 against Mr. Khan's attackers, the police and the prosecution have sought to imply that the attackers did not intend to commit murder but acted under a "sudden provocation", thus blaming Mr. Khan for his own killing.

Common Intention / IPC 34

Widely invoked in other lynching cases in India, Sec 34, says "when a criminal act is done by several persons in furtherance of common intention", each "is liable for that act in the same manner as if it were done by him alone".

But the FIR/charge-sheet do not include Sec 34. This failure has allowed five of those arrested (not named by Mr. Khan) to claim they did not attack Mr. Khan and secure bail from the High Court.

Invoking Section 308 means police are blaming Mr. Khan for his own killing… The failure to invoke Sections 34 and 149 means the attackers won't be held equally responsible

Rioting with Weapon / IPC 148

Sec 148 prescribes deals with "rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death…." The phrase "or with anything" extends to the attack on Mr. Khan.

Yet, the the FIR has failed to include Sec 148, which would establish that Mr. Khan's attackers knew their attack with sticks could cause death. The charge-sheet adds only Sec 147 that pertains to rioting but is silent on the rioters being armed with deadly weapons and causing death.

Equally Guilty / IPC 149

While the FIR invokes Sec 143 — "being a member of an unlawful assembly" — against the attackers, it excludes Sec 149 that deems everyone in such unlawful assembly equally guilty of an offence "committed by any member… in prosecution of the common object". Invoking Sec 149 would have made all attackers equally culpable. But instead of adding Sec 149, the charge-sheet has removed even Sec 143 *(see Table 1)*.

Promoting Religious Enmity / IPC 153A

The FIR/charge-sheet do not include Sec 153A that pertains to "promoting enmity between different groups on ground of religion". Mr. Khan and his co-travellers, as also other victims the cow protectors have murdered across India in the last three years, were

targeted for being Muslims. Many accused are linked with RSS/BJP leaders, including ministers, many of whom routinely make explicit anti-Muslim public statements. An investigation into Mr. Khan's murder under Sec 120B (conspiracy) would expose his deliberate targeting due to his faith. Therefore, Sec 153A ought to be invoked.

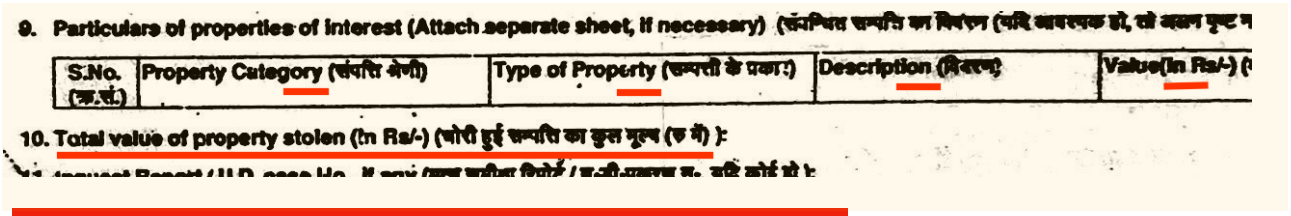
Dacoity / IPC 396, 397, 399, 402

It must be noted that not only were Mr. Khan and his co-travellers brutally attacked, their legally purchased cattle was looted from them. As the attackers-cum-looters numbered more than five, this crime attracts the various IPC provisions on dacoity *(Table 2)*.

Section 396. Dacoity with murder
If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or '[imprisonment for life], or rigorous imprisonment for term which may extend to ten years, and shall also be liable to fine.
CLASSIFICATION OF OFFENCE
Punishment—Death, imprisonment for life, or rigorous imprisonment for 10 years and fine—Cognizable—Non-bailable—Triable by Court of Session—Non-

An investigation of the crime under Sec 120B (conspiracy) would establish that the attack was preplanned with the intention of looting the cattle by using weapons, and had attempted to cause death, leading to murder. By not invoking the sections on dacoity the police and the prosecution have further weakened the case against the accused.

Not only did the police not invoke the sections on dacoity the FIR itself does not recognise that Mr. Khan's cattle was looted from him. The police also failed to mention the looted cattle in the designated column in the FIR. This despite the fact that Mr. Khan's statement reproduced on page 2 of the FIR clearly mentions that he had bought his cattle for Rs. 45,000, and that it was stolen from him by the attackers.


9. Particulars of properties of interest (Attach separate sheet, if necessary)

S.No.	Property Category	Type of Property	Description	Value(In Rs/-)

10. Total value of property stolen (In Rs/-) :

FIR fails to include cattle worth Rs. 45,000 looted from Mr. Khan

Destruction of Evidence / IPC 204

In his dying declaration Mr. Khan's said he was returning home after purchasing cattle for Rs. 45,000, and carried the receipts for the trade. He told the police that when he and his sons showed those receipts as proof of legal purchase, the attackers tore them up. Yet the FIR/charge-sheet have not charged the accused with destruction of evidence.

FAILURE TO ARREST NAMED ACCUSED

At least four of the six men who Mr. Khan named in his dying declaration as his attackers are well known people in Behror. Three of them are well integrated with the Hindutva groups, according to a report published on September 15 in *The Indian Express* newspaper. The most prominent among the six men is Jagmal Yadav, who is identified as a social activist running an NGO *(Table 3)*. Shortly after the attack, the police said the six men had absconded and could not be traced. They would stay untraced for five months.

Table 3

NAME	VOCATION
Hukum Chand Yadav	Manager/physical training instructor, Rajeshwar College
Navin Sharma	Accounts teacher, Rajeshwar College
Jagmal Yadav	Cowshed caretaker; well-known social activist who runs an NGO
Om Prakash Yadav	Owns several shops, land; wife a municipal corporator
Rahul Saini	Assists father at a tyre repair shop
Sudheer Yadav	Helps run a "cow helpline"

It is hard to believe, therefore, that the police could not trace the named accused for five months after the incident. Indeed, the police work against these six men has been highly dubious. First, they failed to arrest the men even though a police officer had recorded Mr. Khan's statement at 11.50 p.m. on April 1, less than two hours after the attack.

Second, apart from announcing a reward of Rs. 5,000 for information on their whereabouts, the police made no efforts to trace the six and arrest them. It is not known if the police conducted any raids, not only at the residences of these accused but also at those of their relatives and friends, as well as at their other likely hideouts.

Incredibly, more than five months after the attack, in September, the police suddenly announced they had exonerated every one of the six accused that Mr. Khan had named *(see next page)*. After this exoneration, a police officer told a newspaper that the police had summoned the six and questioned them. If the accused were so easily available, why did the police not arrest them? Why did the police need to announce a reward on them?

The 6 found not guilty: (from left) Rahul Saini, Jagmal Yadav, Hukum Chand, Om Prakash Yadav, Navin Sharma, Sudheer

Pic: The Indian Express

It is also incomprehensible why the police did not invoke the appropriate legal provisions, including attaching their properties and freezing their bank accounts, to force the surrender of the accused. The police did not even move court for the issuance of warrants of arrest against the men, nor ask the court to order them to surrender before it, remedies available under Sections 82 and 83 of the Criminal Procedure Code (CrPC).

Proclamation for Person Absconding / CrPC 82

Sec 82 of CrPC authorises a court to order a written proclamation published requiring the accused "to appear at a specified place and at a specified time not less than thirty days". It mandates that such proclamation would be read out publicly at a "conspicuous" place in the town of the absconder's residence; be "affixed to some conspicuous part" of his house; and be published in a daily newspaper circulated in the town of the absconder's residence. There is no evidence that the police took recourse to such legal action, which would have certainly put tremendous pressure on the named accused to surrender.

Proclamation for person absconding.

82. Proclamation for person absconding. (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

Attachment of Property / CrPC 83

Sec 83 of CrPC, titled "Attachment of Property of person absconding", authorises a court to order the attachment of movable and immovable property belonging to an absconder "proclaimed" under Sec 82. The court may order the seizure and possession of such properties or appoint a receiver. It may bar the absconder from collecting rent from his properties. If the property is perishable, such as livestock, the court may order its sale. Yet, the police inexplicably failed to seek recourse to this appropriate legal remedy to force the surrender of the six attackers Mr. Khan named in his dying declaration.

83.

Attachment of Property of person absconding.

83. Attachment of Property of person absconding. (1) The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person:

BOGUS EXONERATION

Whereas the police should have been doing their utmost to locate and arrest the six men Mr. Khan had named, they were instead finding ways to exonerate them. In September, the police announced that an investigation by their Crime Investigation Department—Crime Branch (CID-CB) had obtained evidence and statements from witnesses that proved that these six men named by Mr. Khan in his statement were not present on the scene of the crime during the attack and, therefore, could not have murdered Mr. Khan.

But an examination of the FIR, the charge-sheet and the so-called "exoneration report", available via news media reports, raises grave doubts about the reasons the police have accorded to declare the six men as innocent and makes the exoneration highly suspect.

In a news item published on September 14 www.hindustantimes.com, the website of *Hindustan Times* newspaper, claimed that the exoneration was based on statements by policemen and by workers at a cowshed. It quoted the police report as saying:

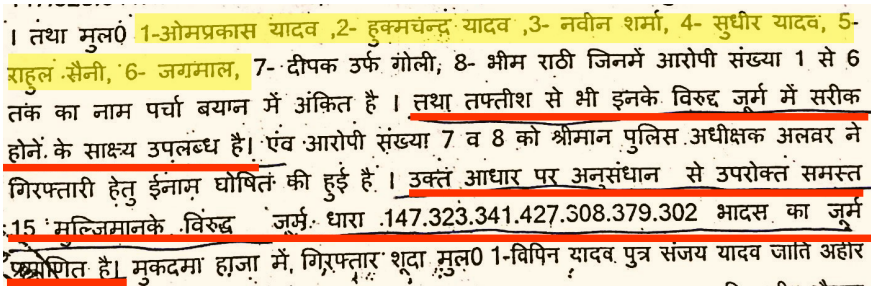
> *The statements of witnesses… including policemen and the employees of the Gaushala indicate that none of the accused was present at the time of the attack…*

The newspaper further said that the police investigation had found that these six accused named by Mr. Khan were instead at the said cowshed at the time Mr. Khan was attacked. The police report said mobile phone call records for the accused confirmed this claim.

Cattle looted from Mr. Khan at Jagmal Yadav's cowshed

It is no coincidence that Jagmal Yadav, who runs an NGO in Behror, is the caretaker of this cowshed. The cowshed workers who told the police Mr. Yadav was at the cowshed at the time of the attack are his subordinates. It is this cowshed where the cattle looted from Mr. Khan was brought and kept *(pic above)*; illegally, of course.

Another reason the police are out of line in touting the cowshed workers' statements is that the police had themselves already submitted at least four such statements with the "Final Report" to the ACJM's court in Behror on May 31, and, therefore, it is only the court that can now rule on their veracity or otherwise after following the due process of law.


। तथा मुल0 1-ओमप्रकास यादव ,2- हुक्मचन्द्र यादव ,3- नवीन शर्मा, 4- सुधीर यादव, 5- राहुल सैनी, 6- जगमाल, 7- दीपक उर्फ गोली, 8- भीम राठी जिनमें आरोपी संख्या 1 से 6 तक का नाम पर्चा बयान में अंकित है । तथा तफ्तीश से भी इनके विरुद्ध जुर्म में सरीक होने के साक्ष्य उपलब्ध है। एंव आरोपी संख्या 7 व 8 को श्रीमान पुलिस अधीक्षक अलवर ने गिरफ्तारी हेतु ईनाम घोषित की हुई है । उक्त आधार पर अनुसंधान से उपरोक्त समस्त 15 मुल्जिमानके विरुद्ध जुर्म धारा 147.323.341.427.308.379.302 भादस का जुर्म प्रमाणित है। मुकदमा हाजा में गिरफ्तार शुदा मुल0 1-विपिन यादव पुत्र संजय यादव जाति अहीर

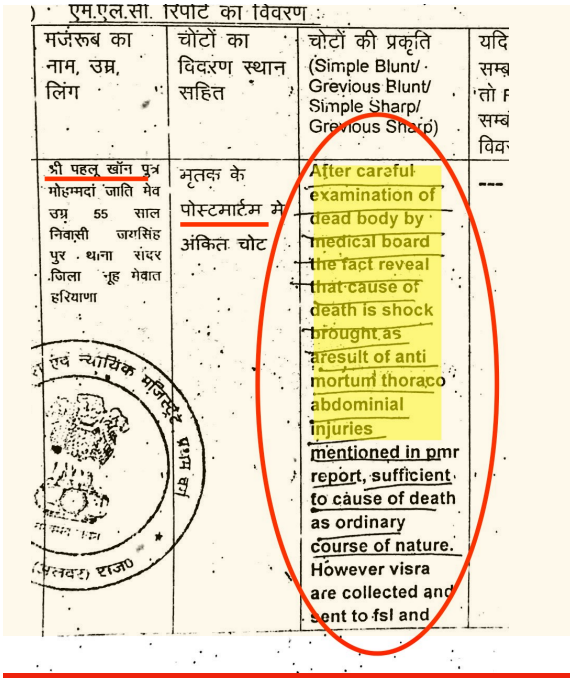
But what is most stunning is that the charge-sheet filed in May said the police investigation had found evidence that the six men were involved in the crime, and the IPC sections invoked in the FIR/charge-sheet would apply to them too. Where is that evidence and why did it become worthless in September?

It may be worthwhile to recall that in convicting 12 Muslims for bomb blasts in Mumbai's local trains that killed 187 people in in 2006, Special Judge Y. D. Shinde refused to accept the mobile phone call records that showed the accused were not present at the scene of the crime when it was committed. They could have left their phones behind, he ruled.

MEDICAL MANIPULATION

The “Final Report” and the charge-sheet also betray an effort to weaken the case against the accused by challenging the finding of the post-mortem report, in a bid to prove that Mr. Khan died not of the injuries from the attack but of natural causes. It is important to note that Mr. Khan’s post-mortem, conducted by a “medical board” of three government doctors from the Community Health Centre (CHC), Behror, revealed that Mr. Khan’s death was indeed caused by the injuries that he had sustained during the attack on him.

In their findings, the government doctors wrote: “After careful examination of dead body by medical board, the fact[s] reveal that cause of death is shock brought as a result of ante-mortem thoraco-abdominal injuries mention[ed] in PMR [post-mortem] report sufficient to cause of death as ordinary course of nature.”



एम.एल.सी. रिपोर्ट का विवरण :

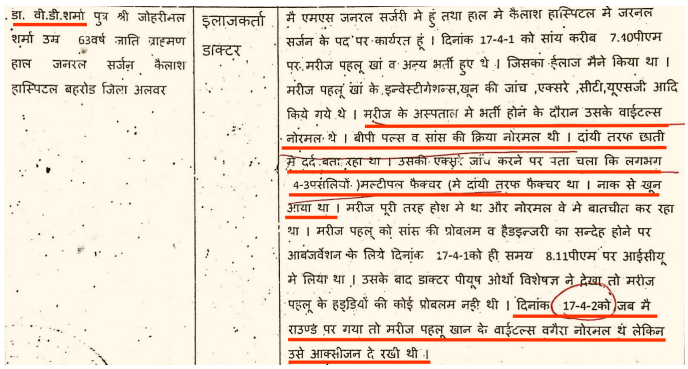
मजरूब का नाम, उम्र, लिंग	चोटों का विवरण स्थान सहित	चोटों की प्रकृति (Simple Blunt/ Grevious Blunt/ Simple Sharp/ Grevious Sharp)	यदि सम्भ तो R सम्भ विव
श्री पहलू खॉन पुत्र मोहम्मदां जाति मेव उम्र 55 साल निवासी जगसिंह पुर थाना रांदर जिला नूह मेवात हरियाणा	मृतक के पोस्टमार्टम में अंकित चोट	After careful examination of dead body by medical board the fact reveal that cause of death is shock brought as aresult of anti mortum thoraco abdominial injuries mentioned in pmr report, sufficient to cause of death as ordinary course of nature. However visra are collected and sent to fsl and	---

Mr. Khan died of injuries: Post-mortem

And yet, the police and the prosecution are trying to negate the report with statements from doctors at the private Kailash Hospital in Behror where Mr. Khan had passed away.

At least three doctors at Kailash Hospital have given statements to the police with regard to Mr. Khan’s death. General Surgeon, Dr. V. D. Sharma, in whose care Mr. Khan was placed, in his statement claimed that Mr. Khan was absolutely fine on April 2 and on the morning of April 3, before dying of a heart attack.

In his statement Dr. Sharma also said it was not possible for Mr. Khan to have died of the injuries he had sustained. But Dr. Sharma’s statement is riddled with many apparent and unexplained contradictions. For example, Dr. Sharma has also admitted that when Mr. Khan was admitted to the hospital on April 1 he had bled from the nose and complained of pain in the right side of his chest where an X-ray later found multiple fracture in the ribs. Yet, Dr. Sharma said Mr. Khan’s blood pressure, pulse and breathing were “normal”.

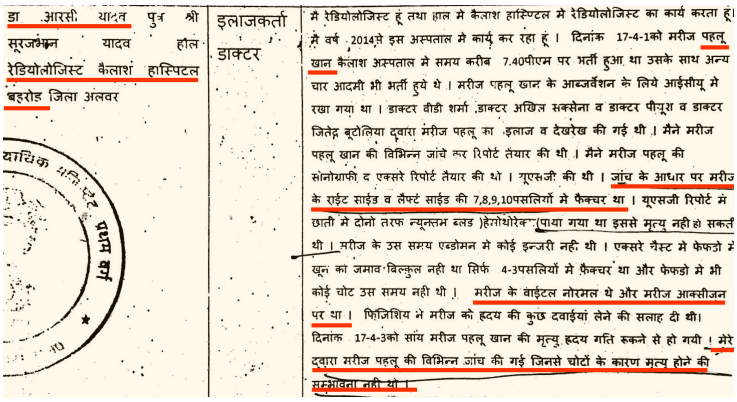


डा. वी.डी.शर्मा पुत्र श्री जोहरीलाल शर्मा उम्र 63वर्ष जाति ब्राह्मण हाल जनरल सर्जन कैलाश हास्पिटल बहरोड जिला अलवर	इलाजकर्ता डाक्टर	मैं एमएस जनरल सर्जरी मे हुं तथा हाल मे कैलाश हास्पिटल मे जरनल सर्जन के पद पर कार्यरत हूं । दिनांक 17-4-1 को सांय करीब 7.40पीएम पर मरीज पहलू खां व अन्य भर्ती हुए थे । जिसका ईलाज मैने किया था । मरीज पहलू खां के इन्वेस्टीगेशन्स,खून की जांच ,एक्सरे ,सीटी,यूएसजी आदि किये गये थे । मरीज के अस्पताल मे भर्ती होने के दौरान उसके वाईटल्स नोरमल थे । बीपी पल्स व सांस की क्रिया नोरमल थी । दांयी तरफ छाती मे दर्द बता रहा था । उसकी एक्सरे जांच करने पर पता चला कि लगभग 4-5पर्सलियों)मल्टीपल फैक्चर (मे दांयी तरफ फैक्चर था । नाक से खून आया था । मरीज पूरी तरह होश मे था और नोरमल वे मे बातचीत कर रहा था । मरीज पहलू को सांस की प्रोबलम व हैडइन्जरी का सन्देह होने पर आबजर्वेशन के लिये दिनांक 17-4-1को ही समय 8.11पीएम पर आईसीयू मे लिया था । उसके बाद डाक्टर पीयूष ओर्थो विशेषज्ञ ने देखा तो मरीज पहलू के हड्डियों की कोई प्रोबलम नही थी । दिनांक 17-4-2को जब मैं राउण्ड पर गया तो मरीज पहलू खान के वाईटल्स वगैरा नोरमल थे लेकिन उसे आक्सीजन दे रखी थी ।

Mr. Khan’s vitals were normal: Dr. V. D. Sharma

Dr. Sharma admits that on his rounds the next morning he found Mr. Khan had been put on oxygen support due to “difficulty in breathing”. Yet, Dr. Sharma said, Mr. Khan's “vitals, etc., were normal”. The doctor also said that Mr. Khan had been asthmatic and a heart patient, and had had stents installed in his heart: hence, his death was due to the failure of a weak heart and not from the injuries.

A similar line is taken by the other doctors of the Kailash hospital, although there is a minor divergence on one claim. Radiologist Dr. R. C. Yadav said that four ribs had been fractured on both the left and the right side of Mr. Khan's chest. Yet, Dr. Yadav also said that a sonography, an X-ray and a USG [ultra sonography] revealed that the chest, lungs and abdomen of Mr. Khan were normal with no injuries. The radiologist, therefore, concluded Mr. Khan could not die of the injuries.



डा. आरसी. यादव पुत्र श्री सूरजभान यादव हाल रेडियोलोजिस्ट कैलाश हास्पिटल बहरोड जिला अलवर

इलाजकर्ता डाक्टर

मै रेडियोलोजिस्ट हूं तथा हाल मे कैलाश हास्पिटल मे रेडियोलोजिस्ट का कार्य करता हूं। मै वर्ष 2014 से इस अस्पताल मे कार्य कर रहा हूं। दिनांक 17-4-16को मरीज पहलू खान कैलाश अस्पताल मे समय करीब 7.40पीएम पर भर्ती हुआ था उसके साथ अन्य चार आदमी भी भर्ती हुये थे। मरीज पहलू खान के आब्जर्वेशन के लिये आईसीयू मे रखा गया था। डाक्टर वीडी शर्मा ,डाक्टर अखिल सक्सेना व डाक्टर पीयूश व डाक्टर जितेन्द्र बूटोलिया द्वारा मरीज पहलू का इलाज व देखरेख की गई थी। मैने मरीज पहलू खान की विभिन्न जांचे एक्स रिपोर्ट तैयार की थी। मैने मरीज पहलू की सोनोग्राफी व एक्सरे रिपोर्ट तैयार की थी। यूएसजी की थी। जांच के आधार पर मरीज के राईट साईड व लैफ्ट साईड की 7,8,9,10पसलियों मे फैक्चर था। यूएसजी रिपोर्ट मे छाती मे दोनो तरफ न्यूनतम ब्लड)हेमोथोरेक्स(पाया गया था इससे मृत्यु नही हो सकती थी। मरीज के उस समय एब्डोमन मे कोई इन्जरी नही थी। एक्सरे चैस्ट मे फेफडो मे खून का जमाव बिल्कुल नही था सिर्फ 4-5पसलियों मे फैक्चर था और फेफडो मे भी कोई चोट उस समय नही थी। मरीज के वाईटल नोरमल थे और मरीज आक्सीजन पर था। फिजिशिय ने मरीज को हृदय की कुछ दवाईयां लेने की सलाह दी थी। दिनांक 17-4-16को सांय मरीज पहलू खान की मृत्यु हृदय गति रूकने से हो गयी। मेरे द्वारा मरीज पहलू की विभिन्न जांच की गई जिनसे चोटों के कारण मृत्यु होने की सम्भावना नही थी।

Mr. Khan did not die of injuries: Radiologist RC Yadav

If is not known if the police seized the medical reports from Kailash Hospital pertaining to Mr. Khan's treatment from the time he was admitted until he passed away, or if they obtained independent assessment from government doctors of such medical reports.

Pic: IBNlive

BJP's Mahesh Sharma owns Kailash Hospital

It may be noted that Kailash Hospital belongs to Kailash Healthcare Limited, a company said to be founded and owned by Dr. Mahesh Sharma, Union Minister of State for Culture, Environment, Forests and Climate Change. A BJP leader, Dr. Sharma has been an RSS member from the age of 14, according to his website, www.drmaheshsharma.com. His alliance with the gau rakshaks are well known.

In September 2015 when gau rakshaks lynched a Muslim, Muhammad Akhlaq, at his home in Dadri village of Uttar Pradesh, Dr. Sharma called it an "accident" and denied it was a "conspiracy". Rather, he alleged in an interview to *The Indian Express*, Mr. Akhlaq had eaten beef, which provoked the Hindus to attack him.

In that interview, Dr. Sharma also alleged, without proof, that illegal cow slaughter was rampant in the village. "There has been a spurt in the cases of cattle theft," he told the newspaper. "They [thieves] tie the four legs (of the cow) in a special knot, use some instrument, kill it. Within minutes, they skin it, pack its meat in a vehicle, and escape."

When one of the accused died in police custody in October 2016, Dr. Sharma not only attended his funeral but also intervened when the dead man's family refused to cremate him until their demands for an investigation and a compensation of Rs. 1 crore were met. He got the district administration to announce a compensation of Rs. 25 lakh.

theft. *Log raat ke time pashuon ko uthalete hain, wahin kaat daalte hain*. They know such an art. They tie the four legs (of the animal) in a special knot, use some instrument, kill it. Within minutes, they skin it, pack its meat in a vehicle, and escape. Within five-seven minutes, they skin an entire adult cow. A gang of just 3-4 persons can do it. They take out everything (from inside the animal's body), leaving just the skin and bones behind," he said.

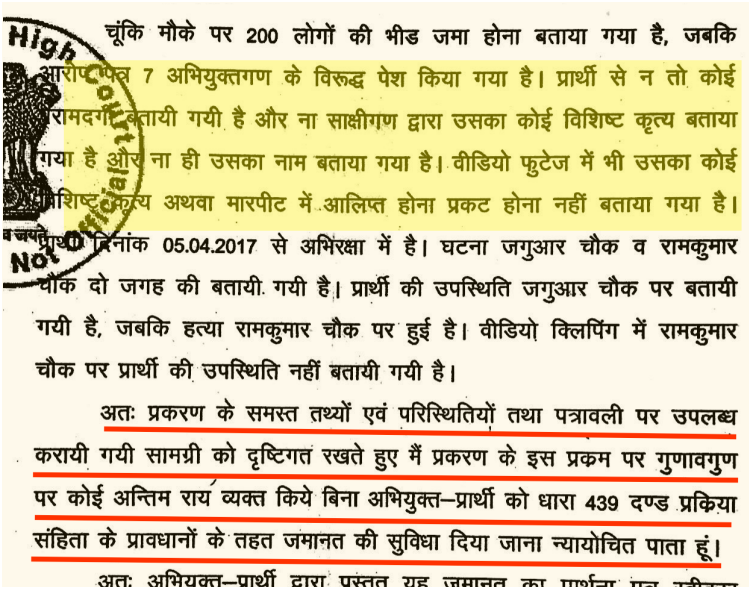
"These (the slaughter of cows) are frequent incidents," the minister said. "Often trucks are seized and cows are recovered. It then causes a ruckus. A few hundred people gather, shout slogans. Someone sets the truck on fire in reaction.

"In the same way, someone said that it was beef (in Bisara). It also appeared like beef. Then they announced from the temple that 'beef was recovered'. 'Where was it found?'

'It was found in his (Akhlaq's) home'. Perhaps there was a trail of blood coming out of that home. People then reached his home. They got furious, a mob gathered, broke the door. That's how it happened."

FAILURE TO DEFEND ARRESTS

As this report noted at the beginning, the police did arrest several people for the attack on and murder of Mr. Khan, even though he had not named any of them in his dying declaration. The police had claimed in the charge-sheet that these men had been arrested on basis their investigation and a video of the attack. However, five of the seven men — two others being juvenile — have secured bail from the Rajasthan High Court with the prosecution failing to defend the arrests in the court.



चूंकि मौके पर 200 लोगों की भीड जमा होना बताया गया है, जबकि आरोप पत्र 7 अभियुक्तगण के विरूद्ध पेश किया गया है। प्रार्थी से न तो कोई रामदर्गी बतायी गयी है और ना साक्षीगण द्वारा उसका कोई विशिष्ट कृत्य बताया गया है और ना ही उसका नाम बताया गया है। वीडियो फुटेज में भी उसका कोई विशिष्ट कृत्य अथवा मारपीट में आलिप्त होना प्रकट होना नहीं बताया गया है। प्रार्थी दिनांक 05.04.2017 से अभिरक्षा में है। घटना जगुआर चौक व रामकुमार चौक दो जगह की बतायी गयी है। प्रार्थी की उपस्थिति जगुआर चौक पर बतायी गयी है, जबकि हत्या रामकुमार चौक पर हुई है। वीडियो क्लिपिंग में रामकुमार चौक पर प्रार्थी की उपस्थिति नहीं बतायी गयी है।

अतः प्रकरण के समस्त तथ्यों एवं परिस्थितियों तथा पत्रावली पर उपलब्ध करायी गयी सामग्री को दृष्टिगत रखते हुए मैं प्रकरण के इस प्रक्रम पर गुणावगुण पर कोई अन्तिम राय व्यक्त किये बिना अभियुक्त–प्रार्थी को धारा 439 दण्ड प्रकिया संहिता के प्रावधानों के तहत जमानत की सुविधा दिया जाना न्यायोचित पाता हूं।

अतः अभियुक्त–प्रार्थी द्वारा प्रस्तुत यह जमानत का प्रार्थना पत्र

Rajasthan High Court allowed bail for murder accused

The first arrestee to secure bail was Ravindra Kumar. In his order of July 12, High Court judge Banwari Lal Sharma granted bail after noting that Mr. Kumar was not named in the FIR and no weapon had been recovered from him.

The judge also wrote that in the video footage of the incident the accused appears to be trying to save the victims. As Mr. Kumar had not been accused of a specific role in the attack, the judge said, he qualified for bail. Over the next two months, four other arrested accused were granted bail by pleading that the allegations against them were similar to that of Mr. Kumar's. Government lawyers offered no counter argument in court.

WAY FORWARD FOR JUSTICE

If the utter failure to deliver justice is legitimised, as the developments in this specific case show, the faith of the common citizen in the institutions of justice and democracy as a whole will be undermined. The challenge is to take corrective measures before more crucial evidence is lost. It is time that the National Human Rights Commission and the higher courts intervene in this case. For the ends of justice to be met and the guilty convicted, the police need to take the following steps, among others, without delay:

- **Arrest the six men Mr. Khan named in his dying declaration**
- **Add IPC sections outlined in this report to the charge-sheet**
- **Register FIR afresh to include names of accused, details of looted cattle**
- **Investigate VHP and Bajrang Dal for involvement in Mr. Khan's murder**
- **Investigate connection between Mr. Khan's and other gau rakshak killings**
- **Appeal against the bails of the various accused**
- **Act against policemen who failed to make arrests at crime scene**
- **Conduct a much broader and more exhaustive investigation**